

REMARKS

Claims 2, 4, 5, 8-10, 19, 20, 24, 25, 27-30, 32, 42, 44, 48-50, 53, 54, 56, 57, 59, and 61 are pending in the application. Claims 5, 15, 29 and 32 are currently amended. Support for the amended claims can be found throughout the specification as originally filed. More specifically:

- support for a non-resealable seam being formed “at a substantially simultaneous time” as another non-resealable first seam in amended claims 15, 29 and 32 can be found in paragraphs [43]-[45] and in figure 14 of the specification;
- support for “a double seal that includes two substantially parallel seals disposed proximal to each other” in amended claims 29 and 32 can be found in paragraph [40] and figure 14 of the specification; and
- support for “first double layer flap[s]” that are “joined along the non-resealable first seam” in amended claim 32 can be found in paragraph [37] and figures 5-6 of the specification.

These amendments and comments are made solely to place the application in condition for allowance and are made without admission or prejudice to further prosecution. Reconsideration of the claims in view of the following remarks and amendments is requested.

Claim Objections

The Office Action states that claims 5, 15, 29 and 32 are objected to because said claims “improperly [describe] the adverb ‘forth’ instead of the numerical noun --fourth--.” Accordingly, applicants have amended claims 5, 15, 29 and 32 to change the term “forth” to “fourth.”

Claim Rejections under 35 U.S.C. § 103 – Warr and Kucksdorf

The Office Action states that claims 2, 4, 5, 8-10, 13-15, 19, 20, 24, 25, 27-29, 32, 42, 44, 48-50, 53, 54, 59, and 61 are rejected as being unpatentable over U.S. Patent No. 5,593,229 to Warr (“Warr”) and U.S. Patent No. 5,338,117 to Kucksdorf et al. (“Kucksdorf”). Applicants respectfully disagree.

Amended claim 5 is directed to “a sealed, multi-handled bag for packaging loose materials” that includes, among other things, “a non-resealable sealed substantially tubular shaped body without intucked sides, having a first end and a second end...the body including two opposing panels” that are “directly attached to each other at the first end to form a non-resealable first seam and at the second end to form a non-resealable second seam.” The multi-handled bag of claim 5 also includes (i) “a first handle formed in [a] first flap,” the first flap “formed from first portions of the opposing panels extending in the longitudinal direction beyond the first seam at the first end” having “a non-resealable third seam distal to the first handle” and (ii) “a second handle formed in [a] second flap,” the second flap “formed from second portions of the opposing panels extending in the longitudinal direction beyond the second seam at the second end” having “a non-resealable fourth seam distal to the second handle.”

The Office Action (“OA”) acknowledges that Warr “does not show the opposite end of the bag having a flap and handle with a construction similar to the flap and handle of the one end.” OA at 3. Assuming the knowledge required to construct such a flap and handle was within the level of ordinary skill in the art at the time the claimed invention was made would be impermissible hindsight, because no such knowledge existed at the time the current application was filed. Yet, the Office Action cites Kucksdorf for the presumption that “it is known in the art to provide flaps and handles of

similar construction at both ends of an analogous bag.” OA at 3. This presumption is incorrect. The “first handle formed in the first flap” and the “second handle formed in the second flap” recited in claim 5 are not “of similar construction” as those described in Kucksdorf. As such, knowledge for constructing the “flaps and handles” in a bag described in Kucksdorf (a “Kucksdorf Bag”) does not amount to knowledge for constructing those found at the first and second ends of the bags of claim 5.

The “flaps and handles” provided by the Kucksdorf Bags are formed by virtue of their rectangular shape. Before a Kucksdorf Bag is closed, it is “positioned in an upright ‘squared’ condition with the top 15 located at the bottom thereof and the other end opened up so as to be able to receive the contents which are poured therethrough into the interior of the opened bag.” Kucksdorf, Col. 5, ll. 32-36; Fig. 1. In contrast, a bag that is “substantially tubular shaped,” such as the bag(s) recited in claim 5, cannot be positioned in an upright “squared” condition during filling and during the construction of the flaps and handles because such a bag does not retain its shape or stand on its own while being filled, often causing the loose materials that fill the bag to interfere with the sealing process. Thus, according to the specification, “an open bag is vertically hung...in an open configuration with the open end oriented upwards and with the first sealed end and handle oriented downwards” and then “filled 314 with loose materials such as salt through the open end.” Specification at ¶ [42]; Figs. 1, 9. Vertically hanging a filled bag “during the sealing process...keeps the loose materials from interfering with the seals” (Specification at ¶ [44]), a consideration that was not taught by Warr nor Kucksdorf because it was not practicable at the time of filing the current application.

Moreover, the Manual of Patent Examining Procedure (M.P.E.P.) states that “[i]f

proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” M.P.E.P. § 2143.01(V) (citing *In re Gordon*, 733 F.3d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984)). Kucksdorf states that one of its intended purposes is to provide a bag that is

formed in the shape of a rectangular container having six sides. To this end, both the top and the bottom end of the bag are formed to provide a flat face extending across the top and bottom ends between four rectangularly arranged sides. By this arrangement, the graphics can be presented on all six sides of the bag so that, when the bag is displayed in the store shelf, it can be arranged to provide a display on any of the six sides and thereby offer consumer appeal for purposes of selling and informing the consumer. (Kucksdorf, Col. 1, ll. 65-68 to Col 2, ll.1-6).

To construct such a “rectangular container having six sides,” each end of a Kucksdorf Bag has “a flap 40’ and a flap 42’ folded over along fold lines 41’ and 43’ which extend along the bottom edges of sides 12’ and 14’, respectively. Each of the flaps 40’ and 42’ comprises first half portions which extend across the end of the bag 51 to the center thereof whereat they are folded to extend at right angles to the flat end provided by the first half portions.” Kucksdorf, Col. 7, ll. 26-33; Figs. 22 and 23. The bottom of the Kucksdorf Bag also requires “a pair of triangular-shaped bottom flap portions 47 extending inwardly from both bottom ends of sides 11 and 13, and being formed by the gusseted portions at the lower ends of said sides 11 and 13.” Kucksdorf, Col. 5, ll. 62-66. Only after all of the folds that form the flat bottom of the Kucksdorf bag may the flaps be sealed “to secure the flaps together at [the] central portion.” Kucksdorf, Col. 7, ll. 38-39. In contrast, the “non-resealable first seam” and the “non-resealable second seam” made at the first end and second end of the “non-resealable sealed substantially tubular shaped body without intucked sides” of claim 5 provides a bag does not have a

rectangular shape, nor does it provide a flat face extending across the top and the bottom ends, thereby destroying the intended purpose of the bag described in Kucksdorf.

Accordingly, for at least the reasons discussed above, claim 5 is patentable over Warr in view of Kucksdorf. Further, because claims 4, 42, 48-50, 53-54 and 59 depend from claim 5, said claims are also patentable over Warr in view of Kucksdorf for at least the same reasons.

Amended claim 15 is directed to, among other things, “a sealed multi-handled bag for packaging loose materials” that includes, among other things, “a non-resealable sealed substantially tubular shaped body without intucked sides, having a first end and a second end...the body including two opposing panels” that are “directly attached to each other at the first end to form a non-resealable first seam and at the second end to form a non-resealable second seam.” The multi-handled bag of claim 15 also includes (i) “a first handle formed in [a] first flap,” the first flap “formed from first portions of the opposing panels extending in the longitudinal direction beyond the first seam at the first end” having “a non-resealable third seam distal to the first handle” and (ii) “a second handle formed in [a] second flap,” the second flap “formed from second portions of the opposing panels extending in the longitudinal direction beyond the second seam at the second end” having “a non-resealable fourth seam distal to the second handle.” Claim 15 is patentable over Warr in view of Kucksdorf for at least the same reasons discussed above with respect to amended claim 5.

In addition, claim 15 recites “wherein the non-resealable third seam is formed at a substantially simultaneous time as the non-resealable first seam, the non-resealable fourth seam is formed at a substantially simultaneous time as the non-resealable

second seam, or both.” Neither Warr nor Kucksdorf contemplates forming two “non-resealable seam[s]” at a “substantially simultaneous time” as claimed.

Accordingly, for at least the reasons discussed above, claim 15 is patentable over Warr in view of Kucksdorf. Further, because claims 2, 8-10, 13-14, 44 and 61 depend from claim 15, said claims are also patentable over Warr in view of Kucksdorf for at least the same reasons.

Amended claim 29 is directed to, among other things, “a sealed multi-handled bag” that includes, among other things, “a sealed tubular shaped body without intucked sides, having a first end and a second end...the body including two plastic sheets” that are “sealed to each other at the first and second ends to form non-resealable seams at the first and second ends.” The multi-handled bag of claim 29 also includes “a first handle formed in [a] first flap,” the first flap “formed from first portions of the plastic sheets extending in the longitudinal direction beyond the first seam at the first end” having “a non-resealable third seam distal to the first handle.” and “a second handle formed in [a] second flap,” the second flap “formed from second portions of the plastic sheets extending in the longitudinal direction beyond the second seam at the second end” having “a non-resealable fourth seam distal to the second handle.” Claim 29 also recites “wherein the non-resealable third seam is formed at a substantially simultaneous time as the non-resealable first seam, the non-resealable fourth seam is formed at a substantially simultaneous time as the non-resealable second seam, or both.”

Claim 29 is patentable over Warr in view of Kucksdorf for at least the same reasons discussed above with respect to amended claims 5 and 15. Additionally, claim 29 is patentable over Warr in view of Kucksdorf because neither reference teaches “[a] non-resealable first seam, [a] non-resealable second seam or both” that “comprise a

double seal that includes two substantially parallel seals disposed proximal to each other” as claimed. Such a double seal “provide[s] a higher strength and a more resilient bond between [the plastic sheets] than a single seal.” Specification at ¶ [40]. Further, because claims 19-20, 24-25 and 27-28 depend from claim 29, said claims are also patentable over Warr in view of Kucksdorf for at least the same reasons.

Amended claim 32 is directed to, among other things, “a sealed multi-handled salt bag” that includes, among other things, “a plastic tube made up of two opposing portions which are heat-sealed directly to each other to form a non-resealable first seal at a first end and a non-resealable second seal at a second end.” The multi-handled bag of claim 32 also includes “a first handle formed in [a] first flap,” the first flap “formed from first portions of the opposing tube portions extending in the longitudinal direction beyond the first seal” and “a second handle formed in [a] second flap,” the second flap “formed from portions of the opposing tube portions longitudinally extending beyond the second seal,” wherein the first and second flaps include “non-resealable third and fourth seals distal to the first and second handles, respectively.” Claim 32 further recites (i) “wherein the non-resealable third seal is formed at a substantially simultaneous time as the non-resealable first seal, the non-resealable fourth seal is formed at a substantially simultaneous time as the non-resealable second seal, or both;” and (ii) “wherein the non-resealable first seal, the non-resealable second seal or both comprise a double seal that includes two substantially parallel seals disposed proximal to each other.”

Claim 32 is patentable over Warr in view of Kucksdorf for at least the same reasons discussed above with respect to amended claims 5, 15 and 29. Additionally, claim 32 is patentable over Warr in view of Kucksdorf because neither reference teaches “a first double layer flap” or “a second double layer flap” which are “formed from

first portions of the opposing tube portions longitudinally extending beyond the first seal [and second seal, respectively], folded over [and] joined along the non-resealable first [and second] seal.” Double layer flaps, as claimed, provide “reinforced handles” that “improve[] strength and reduce[] the amount of pressure applied to a user’s hand” by doubling the layers of material in each flap. Specification at ¶ [38].

Claim Rejections under 35 U.S.C. § 103 – Warr, Kucksdorf and Salfisberg

The Office Action states that claims 16, 17, 30, 56, and 57 are rejected as being unpatentable over U.S. Patent No. 5,593,229 to Warr and U.S. Patent No. 5,338,117 to Kucksdorf et al., “as applied to claims 5, 15, and 29 above, and further in view of U.S. Patent No. 2,103,389 to Salfisberg.” Applicants respectfully disagree.

As discussed above, independent claims 5, 15, and 29 are patentable over Warr in view of Kucksdorf because one of skill in the art would not have combined Kucksdorf with Warr “to provide flaps and handles of similar construction at both ends of an analogous bag.” Salfisberg does not cure the deficiencies of Warr and Kucksdorf, because no “flaps and handles” are taught by Salfisberg. Thus, because claims 16 and 17 depend from claim 5, claims 56 and 57 depend from claim 15, and claim 30 depends from claim 29, said claims are patentable over Warr in view of Kucksdorf and Salfisberg for at least the same reasons discussed above.

CONCLUSION

In view of the foregoing, it is submitted that the claims are in condition for allowance. A Notice of Allowance is requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact the undersigned at 310-788-9900.

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